

# Notice of Allowability

Application No.

10/670,724

Examiner

Sandra Saucier

Applicant(s)

BROCKBANK ET AL.

Art Unit

1651

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments and arguments filed 2/14/07.
2. ☒ The allowed claim(s) is/are 1,7-20,22-28,32,33 and 35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

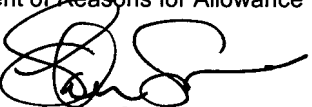
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Sandra Saucier  
Primary Examiner  
Art Unit: 1651

Art Unit: 1651

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with L. Levin on 4/27/07.

The application has been amended as follows:

#### **IN THE CLAIMS**

Claims 2, 3, 29, 30 have been cancelled.

Claim 1 now reads:

1. A method for preserving living mammalian cellular material, comprising: incubating the mammalian cellular material in a culture medium containing at least one sugar for at least three hours; and after said incubation, subjecting the mammalian cellular material to a preservation protocol, wherein said culture medium contains from 0.2 to 0.4M sugar, wherein the at least one sugar comprises trehalose and wherein the cellular material is a cell culture.

28. A method for preparing living mammalian cellular material for preservation comprising:  
incubating the mammalian cellular material in a culture medium containing at least polysaccharide for at least three hours, wherein said culture medium contains from 0.2 to 0.4M polysaccharide, wherein the at least one polysaccharide comprises trehalose and wherein the mammalian cellular material is a cell culture.

The following is an examiner's statement of reasons for allowance:

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Applicants' insertion of "mammalian" overcomes the rejections over Kim or Burger et al. since these references are directed to plant and yeast cell preservation.

Inclusion of "cell culture" has overcome the rejection over US 6,770,478 particularly in view of applicants' arguments that US '478 specifically teaches that "endocytotic uptake route is blocked at sugar concentrations above 0.1M at col. 14, ls. 16-17.". This paragraph discusses platelet preservation. Further reading of this paragraph states that "we prefer not to use sugar concentrations higher than about 50mM in the loading buffer because at some point above this value, we have found swelling and morphological changes of the platelets.". Thus, limitation of the claims to "cultured cells" removes this reference since platelets are not cultured cells and the instant claim is directed to the preservation of "living" cellular material.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance.".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Saucier whose telephone number is (571) 272-0922. The examiner can normally be reached on Monday, Tuesday, Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, M. Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Sandra Saucier', with a long horizontal line extending to the right.

Sandra Saucier  
Primary Examiner  
Art Unit 1651  
April 27, 2007